

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-2352

EL HADJI SALL; ANTA MBAYE DIAGNE,

Petitioners,

versus

JOHN ASHCROFT, Attorney General,

Respondent.

On Petition for Review of an Order of the Board of Immigration Appeals. (A95-226-098)

Submitted: August 6, 2004

Decided: August 23, 2004

Before MICHAEL and GREGORY, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Petition dismissed by unpublished per curiam opinion.

Bokwe G. Mofor, Silver Spring, Maryland, for Petitioners. Peter D. Keisler, Assistant Attorney General, Linda S. Wendtland, Assistant Director, Luis E. Perez, Office of Immigration Litigation, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., for Respondent.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

El Hadji Sall and his wife, Anta Mbaye Diagne, natives and citizens of Senegal, petition for review of an order of the Board of Immigration Appeals denying their motion to reconsider its denial of their application for asylum. We dismiss the petition for lack of jurisdiction.

Petitioners first challenge the Immigration Judge's (IJ) finding that their asylum application is untimely. See 8 U.S.C. § 1158(a)(2)(B) (2000); 8 C.F.R. § 1208.4(a) (2004). We conclude we lack jurisdiction to review this claim. See 8 U.S.C. § 1158(a)(3) (2000). Petitioners next dispute the IJ's finding that they failed to qualify for withholding of removal and protection under the Convention Against Torture. We have reviewed the administrative record and conclude that petitioners did not properly exhaust this claim because they failed to raise it in their motion for reconsideration. See 8 U.S.C. § 1252(d)(1) (2000); Asika v. Ashcroft, 362 F.3d 264, 267 n.3 (4th Cir. 2004).

We accordingly dismiss the petition for review. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

PETITION DISMISSED